

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

HOPE VAN WIEREN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-10-578-D
	)	
CAROLYN W. COLVIN, <sup>1</sup>	)	
Acting Commissioner of Social Security	)	
Administration,	)	
	)	
Defendant.	)	

**ORDER**

Before the Court is the Motion for Attorney Fees [Doc. No. 22], filed by Plaintiff's attorney pursuant to 42 U.S.C. § 406(b) and Fed. R. Civ. P. 60(b). Upon consideration of the Motion in light of *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002), and *Wrenn v. Astrue*, 525 F.3d 931, 937-38 (10th Cir. 2008), the Court finds that Plaintiff's attorney may recover a reasonable fee for the representation of Plaintiff in this case up to the statutory limit of 25% of past-due benefits, provided the attorney refunds the amount of \$3,944.60 previously awarded under the Equal Access to Justice Act (EAJA). *See* Order of May 11, 2011 [Doc. No. 21]. The supporting documents with the Motion, as well as the case record, reveal a total of 24.9 hours of legal work devoted to this case (20.75 attorney hours and 4.15 paralegal hours), which resulted in a favorable judicial decision. *See* Judgment and Order of Remand [Doc. No. 18]. After remand, Plaintiff was determined to be entitled to benefits and was awarded a past-due amount of \$89,843.00.

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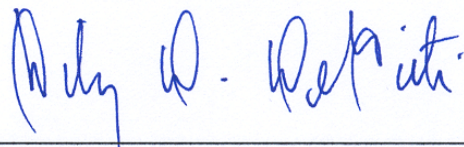
<sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), Carolyn W. Colvin, Acting Commissioner of the Social Security Commission, is automatically substituted for the former commissioner, Michael J. Astrue.

The Commissioner has filed a timely response to the Motion. The Commissioner takes no position concerning the merits of the request, but simply urges the Court to undertake an independent review and to determine whether the requested fee is reasonable for the services rendered.

Upon consideration of the circumstances presented, the Court finds that the requested amount of \$16,460.00 represents a reasonable fee for the work done in this case in view of the nature of the representation and the results achieved, and that this amount does not exceed 25% of Plaintiff's award of past-due benefits obtained by reason of the Judgment entered February 16, 2011. The Court further finds that the Motion was filed within a reasonable time of the Commissioner's decision awarding benefits. *See McGraw v. Barnhart*, 450 F.3d 493, 505 (10th Cir. 2006). The Court therefore finds that the Motion of Plaintiff's attorney should be granted.

IT IS THEREFORE ORDERED that the Motion for Attorney Fees [Doc. No. 22] is GRANTED. The Court approves an award of attorney fees under 42 U.S.C. § 406(b) to Plaintiff's attorney of record, Ryan S. Pack of the Social Security Law Center, in the amount of \$16,460.00. Plaintiff's attorney shall promptly refund to Plaintiff Hope Van Wieren the amount of EAJA fees previously awarded of \$3,944.60.

IT IS SO ORDERED on this 2<sup>nd</sup> day of May, 2013.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE